

### **REMARKS**

Favorable reconsideration of this application, in light of the preceding amendments and following remarks, is respectfully requested.

Claims 1-7, 9, 10, 12, 13, 15, 16, 18, 19 and 21-24 are pending. Claims 1 and 21 are in independent form. Claims 1, 9, 12, 18, 21 and 22 are amended. Claims 8, 11, 14, 17 and 20 are cancelled.

### **INFORMATION DISCLOSURE STATEMENT**

Applicants appreciate the Examiner's acknowledgement of the references filed with the July 8, 2009 IDS, and that the Examiner has included an initialed copy of the 1449 form filed with the July 8, 2009 IDS indicating that the references have been considered.

### **Claim Rejections - 35 USC § 102**

Claims 1-3, 8, 9, 15, 17, 21, and 22 stand rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by Kasevich et al. (U.S. Patent No. 5,223,849, hereinafter "Kasevich"). Applicants respectfully traverse these rejections.

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." MPEP 2131.

"We thus hold that unless a reference discloses within the four corners of the document not only all of the limitations claimed but also all of the limitations arranged or combined in the same way as recited in the claim, it cannot be said to prove prior invention of the thing claimed and, thus, cannot anticipate under 35 U.S.C. § 102."

-- *Net MoneyIn v. Verisign* (Fed. Cir. 2008)

### Claims 8 and 17

Claims 8 and 17 are cancelled. Withdrawal of the rejections to claims 8 and 17 is respectfully requested.

### Claims 1-3, 9, 15, 21 and 22

The Office Action states that, "[r]egarding claims 1 and 21, Kasevich teaches an electromagnetic wave absorber comprising ... conductor elements being substantially polygonal and having arc-shaped corners." Office Action, pp. 2-3.

Claims 1 and 21 recite, *inter alia*, "the first type of the conductor elements are cross conductor elements that are cross-shaped planes, and the second type of the conductor elements are quadrangular conductor elements that are quadrangle-shaped planes[,]" emphasis added.

Kasevich discloses, "antenna patterns[,]" or "antenna elements[.]" Kasevich, Abstract and col. 2, lines 26-30. The antenna elements are patterns of ink lines formed by silk screening. For example, see col. 8, lines 2-6 and FIG. 16. The antenna elements of Kasevich are not, at least, "planes[,]" as recited by claims 1 and 21.

Accordingly, Kasevich cannot anticipate claims 1 and 21. Claims 2-7, 9, 10, 12, 13, 15, 16, 18, 19 and 22-24 are patentable at least by virtue of their dependency from either claim 1 or 21. Applicants respectfully request withdrawal of the rejections and allowance of claims 1-7, 9, 10, 12, 13, 15, 16, 18, 19 and 21-24 .

### **Claim Rejections - 35 USC § 103**

#### ***Kondoh/Matsuo***

Claims 1, 3-7, 10, 12, 13, 15, 16, 18, 19, and 21, 23, and 24 stand rejected under 35 U.S.C. § 103(a) as being allegedly being unpatentable over Kondoh et al. (U.S. Patent No. 6,337,661, hereinafter “Kondoh”) in view of Matsuo et al. (JP 11-204984, hereinafter “Matsuo”).

“When determining whether a claim is obvious, an examiner must make “a searching comparison of the claimed invention – *including all its limitations* – with the teaching of the prior art.” *Ex parte Wada and Murphy* (BPAI Jan. 2008).

The Office Action acknowledges that, “Kondoh does not teach that the plurality of conductor elements have one or more arc shaped corners, or that all corners are arc shaped.” The Office Action attempts to repair the deficiency of Kondoh using Matsuo and by taking official notice that arc shaped corners are well known.

Even assuming, *arguendo*, that arc shaped corners are well known and disclosed by Matsuo (which Applicants do not admit), claims 1 and 21 recite, *inter alia*, “ a first type and a second type of conductor elements having resonant frequencies ... the arc shape having a radius of curvature corresponding to the resonant frequencies[,]” emphasis added.

The Office Action states that, “Matsuo teaches an electromagnetic wave absorber using conductor elements having arc shaped corners (Figs. 4 and 8). Matsuo teaches that the arc shaped corners of Figs. 4 and 8 result in different absorption properties than the square corners of Fig. 3 (see Tables 1-5).” However, Matsuo does not disclose, at least, how the radius of curvature of an arc shaped corner is determined. Further, Matsuo does not disclose, at least, that the radius of curvature corresponds to the resonant frequencies of the conductor elements.

Neither Kondoh nor Matsuo teach or fairly suggest, at least, “a first type and a second type of conductor elements having resonant frequencies ... the arc shape having a radius of curvature corresponding to the resonant frequencies[,]” as recited by claims 1 and 21. Accordingly, even assuming, *arguendo*, that Matsuo could be combined with Kondoh (which Applicants do not admit), Kondoh in view of Matsuo cannot render claims 1 or 21 obvious. Claims 2-7, 9, 10, 12, 13, 15, 16, 18, 19 and 22-24 are patentable at least by virtue of their dependency from either claim 1 or 21. Applicants respectfully request withdrawal of the rejections and allowance of claims 1-7, 9, 10, 12, 13, 15, 16, 18, 19 and 21-24.

***Kondoh/Matsuo/Lind/Kasevich***

Claims 2 and 22 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Kondoh in view of Matsuo and further in view of Lind (U.S. Patent No. 6,225,939, hereinafter “Lind”) or Kasevich. Applicants respectfully traverse this rejection.

Claims 2 and 22 are patentable at least by virtue of their dependency from either claim 1 or 21. Withdrawal of these rejections is requested.

***Kasevich***

Claims 4-7, 10, 12, 13, 16, 18, and 19 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Kasevich. Applicants respectfully traverse these rejections.

“It would not be appropriate for the examiner to take official notice of facts without citing a prior art reference where the facts asserted to be well known are not capable of instant and unquestionable demonstration as being well-known. For example, assertions of technical facts in the areas of esoteric technology or specific knowledge of the prior art must always be supported by citation to some reference work recognized as standard in the pertinent art.”

-- MPEP 2144.03(A).

If Applicant challenges a factual assertion as not properly officially noticed or not properly based upon common knowledge, the Examiner must support the finding with adequate evidence

-- MPEP 2144.03(C).

The Office Action states that;

Regarding claims 4-7, 10, 12, 13, 16, 18, and 19, the claims features are well known. It would have been obvious to further modify Kasevich with said features because they are merely what one would expect to find in an electromagnetic wave absorber.

-- Office Action, p. 6.

Initially Applicants assert that the Examiner has improperly taken official notice. Applicants respectfully submit that the limitations of claims 4-7, 10, 12, 13, 16, 18, and 19 are not capable of instant and unquestionable demonstration as being well-known. Therefore, the Examiner may not take official notice of, "specific knowledge of the prior art ... without citation to some reference work recognized as standard in the pertinent art." MPEP 2144.03(A).

The Examiner states that, "said features ... are merely what one would expect to find in an electromagnetic wave absorber." Office Action, p. 6.

Applicants disagree that the limitations of claims 4-7, 10, 12, 13, 16, 18 and 19 are capable of instant and unquestionable demonstration as being well-known. For example, claim 6 recites, *inter alia*, "the electromagnetic wave absorber is formed in the shape of a sheet having a thickness of at least 0.1 mm and at most 4 mm." Kasevich discloses a electromagnetic energy absorber that exceeds 4mm. Kasevich, col. 9, lines 3-5. Lind discloses an impedance sheet device of undisclosed thickness. Kondoh discloses a high frequency communication device of undisclosed thickness. Further, Applicants note that in the conventional art, "it is usually impossible to reduce the thickness of the electromagnetic wave absorbing material to 4mm or less." Paragraph [0004].

See, also, paragraph [0011]. With regards to claim 7, somewhat similar discussion is made as to the importance of weight. Paragraph [0012]. Further, with respect to claim 4, Applicants note that, “[i]t is impossible to stably obtain conductivity of at least 10,000 S/m described above in conductive ink made of carbon or black lead.” Kasevich discloses conductive elements made of conductive ink. Kasevich, col. 5, lines 31-36.

Accordingly, Applicants respectfully request that the Examiner withdraw the official notice of facts of the Office Action with respect to claims 4-7, 10, 12, 13, 16, 18, and 19.

Assuming, *arguendo*, that taking of official notice in the Office Action is proper (which Applicants specifically disagree with), claims 4-7, 10, 12, 13, 16, 18, and 19 are nevertheless patentable at least by virtue of their dependence from claim 1. Accordingly, withdrawal of these rejections is respectfully requested.

### **CONCLUSION**

Accordingly, in view of the above remarks, reconsideration of the rejections and allowance of each of claims 1-7, 9, 10, 12, 13, 15, 16, 18, 19 and 21-24 in connection with the present application is earnestly solicited.


If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number of the undersigned listed below.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 08-0750 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

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